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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/686,778 | 10/10/2000 | Tom Van Horn | 22930-06085 | 5167 |

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

EXAMINER

GART, MATTHEW S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3625

| MAIL DATE | DELIVERY MODE |
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08/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/686,778 | VAN HORN ET AL. | |
| | Examiner | Art Unit | |
| | Matthew S. Gart | 3625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE 7/20/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-45 and 47-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-45 and 47-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/30/2007</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/20/2007 has been entered.

Prosecution History Summary

- Claims 1-38, 46 and 54 have been cancelled.
- Claim 39-45 and 47-53 are currently pending in the instant application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 47-53 are rejected under 35 U.S.C. 101.

Referring to claims 47-53. Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature that constitute "descriptive material." Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs that impart functionality when employed as a computer component. Claim 47 fails to recite a computer component positively executing the claimed computer program product.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-45 and 47-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent No. 6,269,343) in view of Ross (U.S. Patent No. 6,629,135).

Referring to claim 39. Pallakoff discloses a computer-implemented method for providing information from a seller about an on-line group buying sale to a website for referring potential buyers to the on-line group buying sale, the method comprising:

receiving item data from each of the plurality of sellers that defines a featured item for an on-line group-buying sale, wherein each seller transmits the item data over an electronic network to a computerized facility configured to conduct a plurality of on-line group-buying sales for the featured items defined by the received item data over the electronic network (Pallakoff: Fig. 3, "31...product description");

receiving sales data from each of the plurality of sellers that provides the sellers directions for the on-line group-buying sale of the featured item, wherein each seller transmits the sales data over the electronic network to the computerized facility (Pallakoff: Fig. 3, "31...different price levels for different demand thresholds");

storing the item data and the sales data received from each seller in a data repository, wherein the computerized facility uses received sales data to conduct the

plurality of on-line group-buying sales of featured items defined by received item data (Pallakoff: column 12, lines 54-67);

receiving instructions for selecting an on-line group buying sale from the plurality of on-line group buying sales for a website for referring potential buyers to an on-line group buying sale (Pallakoff: column 6, line 36 to column 7, line 5, "In the preferred embodiment, the system 13 presents one or more sellers' offers on one or more web sites with web pages similar to web page 21." and "...the system 13 presents offers on one or more web sites as in accordance with the program flow diagram shown in Fig. 5.");

receiving from the referring website a request for informational (Pallakoff: column 9, lines 34-65);

responsive to the request for information and the instructions for selecting an on-line group buying sale, selecting for the referring website an on-line group buying sale from the plurality of on-line group buying sales (Pallakoff: column 9, lines 34-65);

generating a display associated with the selected on-line group buying sales (Pallakoff: column 9, lines 34-65);

generating a link to the display (Pallakoff: Fig. 6); and

providing a link to the referring website, whereby a potential buyer accessing the referring website can access the link, and thereby access the display associated with the selected on-line group buying sale and participate in the selected on-line group buying sale (Pallakoff: Fig. 6).

The Examiner notes, Pallakoff discloses a method for receiving instructions for selecting on on-line group buying sale from the plurality of on-line group buying sales for a website for referring potential buyers to an online group buying sale. However, Pallakoff is silent to a method wherein an instruction of the instruction for selecting comprises a selection of a category, from a hierarchy of categories, of goods/services to be sold in an on-line group buying sale.

Ross is directed to an e-commerce out-sourcing system and method that provides hosts with transparent, context sensitive e-commerce supported pages. Ross further discloses a system and method wherein an instruction for selecting comprises a selection of a category, from a hierarchy of categories, of goods/services to be sold in an on-line group buying sale (Ross, column 7, line 65 to column 8, line 5).

At the time of invention, it would have been obvious to one of ordinary skill in the art, to have modified the method of Pallakoff with the teachings of Ross in order to provide owners of a referring web site a cost effective and scalable architecture that streamlines content addition (Ross: column 3, lines 32-45).

Referring to claim 40. Pallakoff further discloses a method wherein the request for information from the referring website contains a sales criterion, and selecting for the referring website an on-line group buying sale is performed responsive to the sales criterion (Pallakoff: Fig. 4).

Referring to claim 41. Pallakoff further discloses a method wherein the sales criterion comprises at least a timing criterion (Pallakoff: Fig. 4, "46").

Referring to claim 42. Pallakoff further discloses a method wherein the selected on-line group buying sale is offered exclusively to potential buyers who access the selected on-line group buying sale through the link provided to the referring website (Pallakoff: column 9, lines 34-65).

Referring to claim 43. Pallakoff further discloses a method comprising receiving instructions for displaying an on-line group buying sale from the referring website, and wherein generating a display is performed responsive to the instructions for displaying (Pallakoff: Fig. 5).

Referring to claim 44. Pallakoff further discloses a method wherein the instructions for displaying specify displaying the selected on-line group-buying sale in a random scheme (Pallakoff: Fig. 5).

Referring to claim 45. Pallakoff further discloses a method wherein the display comprises a link back to the referring website (Pallakoff: Fig. 6)

Referring to claims 47-53. Claims 47-54 are rejected under the same rationale as set forth above in claims 39-46.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew Gart
Primary Examiner
March 21, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600